IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR. JUSTICE N.V.RAMANA

WRIT PETITION NO. 24354 of 2004

Between:

1. Smt.Rudraraju Parvathamma W/o Bangarraju,

R/o Flat No.C-8, Dutch Layout, Seasurf Apartments,

Kirlampudi Layout, Visakhapatnam.

2. Smt.Kalidindi Krishna Kumari W/o K.Neelakanteswararaju,

R/o Flat No.C-8, Dutch Layout, Seasurf Apartments,

Kirlampudi Layout, Visakhapatnam.

Represented by their G.P.A. holder Sri P.V.L.Padmanabha Raju.

…. PETITIONERS

AND

The Visakhapatnam Municipal Corporation,

rep. by its Commissioner, Visakhapatnam. …..RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein, the High Court will be pleased to issue a writ of Mandamus declaring the notice in U.C.No. 122/2004 ACP-II dated 25.10.2004 as illegal, arbitrary, capricious, contrary to the provisions of the Hyderabad Municipal Corporation Act and in utter violations of principles of natural justice and consequently direct the respondent not to desist the petitioner from proceeding the construction as per the plan approved by the respondent Corporation.

Counsel for the Petitioner: Mr.N.SUBBA RAO

Counsel for Respondent : Mr.T.S.VENKATARAMANA, Standing Counsel

The Court made the following:

ORDER:

The first petitioner claims to be owner of a building constructed in an extent of 854 Sq.yds. and second petitioner claims to be owner of 158 Sq.yds. covered by Plot No. MIG-12, Kirlampudi Layout, having purchased the same through a registered sale deed dated 20-10-1984 and 31-12-1984. The petitioners are stated to have obtained building permission from the respondents vide proceedings dated 13-8-2004 for construction of apartment consisting of stilt floor for parking, ground floor plus four upper floors. On obtaining permission, the petitioners claim that they started construction and laid the first slab by the end of September, 2004. While so, a notice dated 25-10-2004 was issued to the first petitioner, and he submitted an explanation to the same on 27-10-2004. The petitioners allege that without conducting any inspection and without following the due process contemplated under law, the officials of the respondents on 2-12-2004 attempted to dismantle the constructions made by the petitioners. Hence the present writ petition.

Heard the learned counsel for the petitioner and Mr. T.S. Venkataramana for

respondent-Municipality. Both the counsel agreed for disposal of the writ petition at the stage of admission.

Inasmuch as it is contended by the petitioners that they are making the construction as per the approved plan, and in fact, they have also submitted their explanation to the notice requesting the respondent not to take hasty steps without conducting proper enquiry of the construction made by them, I deem it appropriate to dispose of the writ petition directing the respondent to conduct an inspection of the site of the petitioners in which they are making construction, and thereupon pass appropriate orders on the explanation submitted by the petitioner, in accordance with law, expeditiously, and till such time, they shall not take any coercive steps to demolish the constructions made by the petitioner.

With the above directions, the writ petition is disposed of. No costs.

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N.V. RAMANA,J.

Date: 28-12-2004.

Note: Issue C.C. today.

B/o

Tvk

To

1. The Commissioner, Visakhapatnam Municipal Corporation, Visakhapatnam.

2. 2 CD copies